

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

BENCHMARK INVESTMENTS, LLC,

Plaintiff,

-v-

HARRYMAX CONSULTANTS, LLC and BRETT
BORGERSOON,

Defendants.

22 Civ. 7715 (PAE)

ORDER

PAUL A. ENGELMAYER, District Judge:

On November 11, 2022, defendants filed a motion to dismiss the complaint under Rule 12(b) of the Federal Rules of Civil Procedure. Dkt. 17. Under Rule 15(a)(1)(B), a plaintiff has 21 days after the service of a motion under Rule 12(b) to amend the complaint once as a matter of course.

Accordingly, it is hereby ORDERED that plaintiff shall file any amended complaint by December 2, 2022. No further opportunities to amend will ordinarily be granted. If plaintiff does amend, by December 23, 2022, defendants shall: (1) file an answer; (2) file a new motion to dismiss; or (3) submit a letter to the Court, copying plaintiff, stating that they rely on the previously filed motion to dismiss.¹


It is further ORDERED that if no amended complaint is filed, plaintiff shall serve any opposition to the motion to dismiss by December 2, 2022. Defendants' reply, if any, shall be served by December 9, 2022. At the time any reply is served, the moving party shall supply the

¹ If defendants file a new motion to dismiss or rely on their previous motion, plaintiff's opposition will be due 14 days thereafter, and defendants' reply, if any, will be due seven days after that.

Court with a courtesy copy of all motion papers by attaching them as PDF files to a single email addressed to EngelmayerNYSDChambers@nysd.uscourts.gov.

The Court will determine later, after receipt of plaintiff's anticipated brief opposing a motion to dismiss the current or amended complaint, whether to schedule oral argument.

SO ORDERED.



PAUL A. ENGELMAYER
United States District Judge

Dated: November 15, 2022
New York, New York